

### § 429.3

### 43 CFR, Subtitle B, Ch. I (10–1–03 Edition)

(h) *Administrative costs* means all direct or indirect costs including appraisal costs if required, incurred by Reclamation in reviewing, issuing, and processing of rights-of-use requests or the assisting of others in their rights-of-use matters, calculated in accordance with the procedures established by Departmental Manual 346, "Cost Recovery," Chapters 1, 2, 3, and 4.

(i) *Grantor or Permittee* means the Bureau of Reclamation, U.S. Department of the Interior.

(j) *Grantee or User* means the agency, firm, partnership, or individual who requested and to whom is granted the right-of-use.

(k) *Documentation of administrative costs*. This documentation shall mean documentation in accordance with the provisions of part 346, chapters 1, 2, 3, and 4 of the Departmental Manual. Administrative costs will be documented through the accurate recording and accounting of costs associated with a right-of-use. This documentation shall include both direct and indirect costs, such as:

- (1) Personnel costs.
  - (i) Direct labor.
  - (ii) Fringe benefits.
  - (iii) Additional benefits.
- (2) Material costs, printing costs, and other costs related directly with a specific right-of-use.
- (3) Exclusions.
  - (i) Management overhead.
  - (ii) Normal costs not directly associated with the specific right-of-use.
- (l) *Secretary* shall mean the Secretary of the Interior.

#### § 429.3 Establishment of the value of rights-of-use.

(a) The value of a right-of-use shall be determined by Reclamation. The appraised value of a right-of-use shall be established by a Reclamation staff or contract appraiser in accordance with Reclamation Instructions for *Land Appraisal*. The appraisal shall be for the fair market value for the requested right or privilege, and result from the diminution of value of the remainder using the before and after appraisal approach, or any other method generally approved within the real estate appraising profession for such valuation.

(b) If the applicant has been or is currently using the right-of-use area without authorization, and if it can be determined that the unauthorized use of Federal Lands was unintentional and not due to carelessness or neglect on the part of the applicant, then the value of a right-of-use shall not include the value of any prior unauthorized use by the applicant of the Reclamation land.

(c) If the applicant's prior unauthorized use can be determined to be intentional on his part or to be a result of his carelessness or neglect, then the value of such previous use shall be determined as assessed to the user in addition to the appraised value of the right-of-use.

#### § 429.4 Request by other governmental agencies and nonprofit organizations for rights-of-use.

Rights-of-use requested by nonprofit organizations or nonprofit corporations may be provided with no charge being made for the value of these rights-of-use when it is determined that the use will not interfere with the authorized current or planned use of the land by Reclamation. Rights-of-use requested by other Federal or other governmental agencies will be granted with fair market value reimbursement unless, a reasonable opportunity exists for the exchange of rights-of-use privileges, and there exists an interagency agreement providing for such exchange. Other agencies and nonprofit organizations will be required to reimburse Reclamation for all administrative costs which are deemed to be excessive to normal costs for granting similar rights-of-use request. All billings for administrative costs will be well documented (§429.2(k)). All requests will provide the information required in §429.6(a), and (b).

#### § 429.5 Request by others for assistance.

The agency requesting assistance from Reclamation in acquiring a right-of-use shall be required to reimburse Reclamation for any administrative costs deemed to be in excess of the average normal for the specific service or assistance (§429.2(h)) and would not normally be foreseen and covered in